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COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 54th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 26 April 1999, at 3 p.m.

Chairperson: Ms. ANDERSON (Ireland)

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GE.99-13120 (E)

The meeting was called to order at 3 p.m.

RATIONALIZATION OF THE WORK OF THE COMMISSION (agenda item 20) (continued) (E/CN.4/1999/104, 120 and 124; E/CN.4/1999/NGO/7; E/CN.4/1999/L.62 and L.101)

1. Ms. GLOVER (United Kingdom) said that the consultations during the current session had led to a consensus on the need to improve and modernize the Commission's mechanisms. The draft resolution that had emerged from those consultations (E/CN.4/1999/L.101) did not represent a "quick fix" but took a modest, sensible and realistic approach to the rationalization of the Commission's work and reflected a high degree of flexibility on the part of many delegations.

2. Her delegation expected that, at its current session, the Commission would reach agreement on a modest number of the recommendations contained in the report of the Bureau of the fifty-fourth session of the Commission submitted pursuant to Commission decision 1998/112 (E/CN.4/1999/104). Arrangements for inter-sessional work on those issues must then be finalized.

3. Mr. SIMKHADA (Nepal) said that the recommendations of the Bureau of the fifty-fourth session must be considered in the context of broader questions. However, smaller delegations, such as his own, required sufficient time to consider those questions thoroughly, since the material contained in the report had far-reaching implications. He regretted that the request by such delegations for more time was being interpreted as a delaying tactic, and he urged all delegations to resist the temptation to adopt a selective approach to the rationalization exercise on the basis of a perceived majority.

4. Mr. MORJANE (Tunisia) said that measures must be determined by consensus. While the question of rationalizing the Commission's work was complex, the recent informal consultations had shown a general commitment to human rights and revealed more areas in which views converged than areas in which they differed. The best way to review the proposals would be in an inter-sessional working group headed by the Chairperson; the basic document should be the report of the Bureau of the fifty-fourth session (E/CN.4/1999/104), but proposals from other groups and countries could be considered in due course. The Commission should nevertheless take action on some of the recommendations contained in the report at its current session.

5. With regard to specific recommendations, he agreed that there was a need to rationalize the mandates of thematic and country rapporteurs, but that process should not be an arbitrary one. In specifying the roles and tasks of individual mechanisms, the special procedures must reflect the serious concerns of the countries involved and provide for constructive ways of assisting them. He supported strengthening the role of the Bureau and said that the most important criterion for special rapporteurs should be high moral character, and especially independence of Governments and non-governmental organizations (NGOs) alike. He endorsed the limit of two successive three-year terms for office-holders, since longer service might adversely affect their independence. Lastly, countries must respect the privileges and immunities enjoyed by special rapporteurs.

6. Mr. ALFONSO MARTÍNEZ (Cuba) said that he had been surprised and frustrated to find that the annex to document E/CN.4/1999/120, containing alternative recommendations to those contained in document E/CN.4/1999/104, had not been translated into Spanish.

7. His delegation was also frustrated at the way the Commission was proceeding with its consideration of the agenda item, for it had hoped to have an interactive exchange of views, whereas the Commission was proceeding as usual, with representatives reading out prepared statements. He therefore concluded that many delegations were not interested in conducting a substantive debate on all the proposals put forward for rationalizing the Commission's work. He also shared the confusion expressed by the representative of Ecuador as to the difference between the proposals and recommendations in the Bureau's report (E/CN.4/1999/104). In any event, since those proposals would have very serious consequences, they must be discussed thoroughly, and the Commission should not take any formal decision upon them until such a debate had been held.

8. The approach adopted by the Bureau of the fifty-fourth session in its report had been selective and incomplete. For example, while the Vienna Declaration had called for the strengthening of the Commission's special procedures and of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Bureau merely stated, without explanation, that the Sub-Commission was the most expensive of all the Commission's mechanisms. The Bureau also concluded that the limited deliberations on the proposals contained in document E/CN.4/1998/L.2 had not provided sufficient foundation for any recommendations thereon, even though those recommendations and proposals merited further study. His delegation's position on that issue would be fully reflected in a draft resolution (E/CN.4/1999/L.62/Rev.1). However, given the opposition of many Commission members to engaging in a genuine debate on the topic, it was unlikely that substantive agreement on any proposals would be reached at the current session. His delegation reserved the right to state its position on specific issues more fully in the inter-sessional working group, but such a working group could not take the place of the Commission.

9. Mr. AGUILAR URBINA (Secretary of the Commission) said that it was indeed regrettable that a lack of translation staff had made it impossible to have the annex to document E/CN.4/1999/120 translated from English into the other official languages.

10. Mr. SKOGMO (Norway) said that the recommendations in the report were coherent and constructive and should be supported. On substantive issues, he generally endorsed the statement made by the representative of Germany at the previous meeting. While the Commission's monitoring procedures might need to be streamlined and strengthened, they would remain necessary so long as violations of human rights occurred. The capacity of the High Commissioner's Office (OHCHR) to provide advisory services and technical cooperation should also be strengthened, and he agreed with the representative of India on the importance of building national and local capacities through such assistance. His delegation viewed capacity-building and monitoring as complementary activities rather than as alternatives.

11. At its current session, the Commission ought to be able to agree on rationalizing its network of mandates, although the specific modalities of that effort could be decided by the inter-sessional working group. There also appeared to be general agreement on recommendations 5, 6 and part of 8 in the Bureau's report. His delegation endorsed option 3 of recommendation 4 and believed that the Commission should be guided by recommendation 13 in respect of its standard-setting working groups. The recommendations pertaining to the Sub-Commission and the procedure established by resolution 1503 (XLVIII) of the Economic and Social Council should be considered further by the inter-sessional working group with a view to the submission of concrete proposals to the Commission at its fifty-sixth session.

12. The Commission had before it two alternative draft resolutions on the agenda item (E/CN.4/1999/L.62 and L.101), and he believed that the Commission must endeavour to bridge the approaches adopted in each of them. While it was unrealistic to assume that decisions could be taken on all the recommendations in the Bureau's report, the Commission must address both procedural and substantive issues in the decisions it did take.

13. Mr. HYNES (Canada) said he agreed with the representative of Cuba that the Bureau's report could have addressed some issues in greater depth but said that, on balance, his delegation found it satisfactory and, in that connection, endorsed the comments made by the representatives of Ecuador, Bangladesh and Poland. The report was not the product of a comprehensive intergovernmental negotiation, but reflected the collective views of the members of the Bureau of the fifty-fourth session.

14. As to how the Commission should proceed, he agreed with the statement by the representative of Argentina. Draft resolution E/CN.4/1999/L.101 constituted a moderate reaction to the report and accommodated the concerns of delegations that feared the Commission might move too fast in its effort to rationalize its work. He urged all delegations to remain flexible so that the Commission could achieve something concrete at its current session; otherwise the Commission's political will to implement decision 1998/112 would be called into question.

15. Mr. BOYTCHENKO (Russian Federation) said that the Bureau's report had given everyone a clearer idea of the questions on which the Commission could reach consensus at the current session, as well as of the more complex issues that would have to be considered further during the inter-sessional period. In that regard, his delegation supported the need to establish an inter-sessional mechanism. If decisions on rationalization were not taken by consensus, the result of the work would not be universal.

16. In the first place, it was essential to maintain the Commission's role as the basic United Nations human rights body and to reaffirm the basic principle that Governments bore the main responsibility for promoting and protecting human rights. The results of the rationalization should be in keeping with the principles on which human rights activities were based, including those set out in the Vienna Declaration and Programme of Action; they should also be in keeping with the basic thrust of the activities of the United Nations High Commissioner for Human Rights. The process of rationalization should be focused on resolving tasks connected with the

growing importance of human rights throughout the United Nations system, should be in harmony with the system's other fundamental tasks and should, in general, help to strengthen the United Nations.

17. Mr. NUSHIRWAN (Observer for Malaysia) said there were three priority issues to be resolved with regard to procedural questions: the terms of reference of substantive discussions; the linkage between the special mechanisms; and the fact that consensus should be made up of the broadest possible agreement. There was an increasing convergence of views on the three issues and, if agreement could be reached on them, discussion could then turn to the programme of work and mechanics for an open-ended inter-sessional working group with a limited time-frame in which work on the issue should be completed.

18. As for the substantive questions, the elements in the "apparently easy" basket were limiting an individual's tenure of a given mandate, the requirement that the reports of special procedures be submitted by the middle of December, the availability to interested delegations of unedited advance versions of reports, and a change of the name of the Sub-Commission. The more difficult issues related to expanding the powers of the Bureau and measures related to increasing the level of cooperation between and coercion of States.

19. Mr. SALVADOR (Observer for Spain) said that, while it would be a considerable step forward if the Commission could adopt the draft resolution contained in document E/CN.4/1999/L.101, there were already further recommendations for it to consider at its fifty-sixth session the areas that would have to be dealt with in greater depth. There was a wide diversity of views on some of the more complex issues, and the inter-sessional working group would have to deal with them thoroughly. Every effort should be made to reach agreement and it would certainly be regrettable if no progress had been made by the end of the current session.

20. Mr. KHORRAM (Observer for the Islamic Republic of Iran) said there was no doubt that the special procedures of the Commission, especially the country situation procedure, were flawed. The main cause of their shortcomings was that there were no clear-cut criteria for the country situation procedure other than the obscure concept of "gross and systematic violations of human rights", which was interpreted in a selective and arbitrary way. In clear defiance of the general desire to address those shortcomings, a group of countries, which happened to enjoy a block vote, considered any change to the country situation procedure unacceptable.

21. The Bureau's report enumerated the system's flaws but unfortunately did not contain any specific proposal on reforming the country situation procedure. Nevertheless, its recommendations had far-reaching and enduring implications for the Commission and its mechanisms. Attempts had been made to engage in a serious negotiation on the Bureau's report, but no agreement could be reached in the time available. Any hasty action, such as tabling a draft resolution, would be counterproductive. An open-ended inter-sessional working group should be established to continue consideration of both the Bureau's report and other contributions.

22. Ms. TALVET (Observer for Estonia) said that her delegation endorsed recommendation 12 in the Bureau's report (E/CN.4/1999/104) concerning the Sub-Commission. It shared the views expressed by the representatives of Germany, the United States of America and Lithuania, and would have thought that decisions regarding the size of the Sub-Commission and the criteria for the election or nomination of its members could have been taken by the Commission at its current session. It was convinced of the need for changes in the functioning of the human rights mechanisms in all four main areas along the lines proposed in the Bureau's report. The inter-sessional work should be constructive and should prepare draft decisions for adoption by the Commission at its fifty-sixth session.

23. Ms. BECIREVIC (Observer for Croatia) said that the mandate of any country-specific mechanism should be decided case by case in the light of requirements but that its aim and expectations must be clearly spelled out so as to avoid automatic renewal of the mandate long after the initial justification had ceased to exist. At each session, the Commission should conduct a systematic dialogue on the observations and recommendations, including the extent to which past recommendations had been followed by the Government concerned, as well as the work of the special rapporteur in question. If the issues left to be monitored were exclusively those dealt with under thematic mandates, the country-specific mandate should be discontinued and the issues dealt with by the relevant thematic rapporteurs.

24. The time-frame of a special rapporteur's mandate should not exceed one year and the appointments to special procedures posts should be made exclusively by the Chair of the Commission following consultations with the Bureau. The annual report should have an annex containing comments made by the country under scrutiny.

25. Her delegation supported the draft resolution contained in document E/CN.4/1999/L.101 but emphasized that the inter-sessional process should continue to develop further recommendations contained in the Bureau's report. Moreover, the Commission would need to assess the effects of the newly adopted reform in the light of the purposes of its decision 1998/112.

26. Mr. GOLEDZINOWSKI (Observer for Australia) said that his delegation endorsed the statements by the representatives of Norway, the Republic of Korea and Argentina. In particular, he shared the Norwegian view that balance must be achieved between substance and process. Every delegation's opinion must be heard and taken into account.

27. Mr. TEKLE (Observer for Eritrea) said his delegation agreed, in particular, with the statement by the representative of Germany. The Sub-Commission must, if it was to become a relevant and credible mechanism, increase the perception and reality of its independence, enhance its credibility by avoiding statements based on inadequate deliberations and very thin expertise, ensure that its studies met the needs of the human rights community at large and develop a partnership with NGOs to enrich the Commission's implementation procedures.

28. The Sub-Commission must be composed of "independent" persons if it was to be perceived as itself independent and impartial. His delegation thus

strongly endorsed recommendation 12 (b) that no member should be concurrently employed in the executive branch of his or her country's Government. It would have been preferable for measures to be taken during the current session to address that particular issue and the Commission should, if it decided to postpone action, adopt stop-gap measures to ensure impartiality in the Sub-Commission and working groups.

29. Ms. WESCHLER (Human Rights Watch) said that, while her organization welcomed the Bureau's far-reaching proposals and emphasis on the integrity of the Commission's fact-finding mechanisms, it was concerned about some of the recommendations. Replacement of the Working Group on Arbitrary Detention by a single rapporteur would be a mistake, since the semi-judicial aspect of the Working Group's mandate to issue decisions would be lost. The recommendation that a code of conduct for rapporteurs should be based on the United Nations code of conduct for experts on mission was inappropriate, given the unique role they played. Lastly, her organization opposed reducing the number of members of the Sub-Commission to 15.

30. Mr. NARVAEZ GARCIA (American Association of Jurists) said that his organization did not share the view that the Commission's actions on specific country situations should be determined on the basis of consensus and, if possible, with the engagement of the country concerned. Voting was a key democratic mechanism, and the search for unanimity could lead to paralysis or hypocrisy. Having endorsed a number of the recommendations and proposals contained in the Bureau's report he said that OHCHR should not be dependent upon voluntary contributions since some States deliberately provoked gaps in the regular budget so as to manipulate the work through voluntary contributions. The proposal that the members of the Sub-Commission be appointed by the Chair of the Commission was unacceptable. Moreover, it was noteworthy that the Bureau's proposals tended to attach greater importance to civil and political rights.

31. The Commission had, all too often, failed the test of objectivity, impartiality and non-selectivity. The resolution on the situation in Kosovo was a case in point. While rightly considering the policy of a Government that persisted in seriously violating human rights, the Commission had refrained from adopting any position on acts which could have enormous long-term consequences for the international community. The deliberate breach of international law, by a military coalition comprising some of the world's most powerful States had resulted in violation of the Geneva Conventions, particularly Additional Protocol I. The Commission had lost an opportunity of responding to the crucial question of whether those who violated human rights should be combated by their own methods or within the law.

32. Ms. NEURY (Centre Europe - Tiers Monde) said that the Bureau's report did not reflect all points of view, particularly those expressed by certain NGOs. Its recommendations demonstrated the desire of certain Governments to use United Nations institutions to serve their own interests. Although the Western countries had recognized the interdependence, indivisibility and non-selectivity of human rights, their indissociability was not reflected in the Bureau's report, which concentrated on civil and political rights to the detriment of economic, social and cultural rights and the right to development. In that connection, the proposal to cut the Sub-Commission's

session to two weeks and to reduce its membership from 26 to 15 was intended to silence that think-tank of independent experts which had shown too much interest in the latter category of rights.

33. Mr. BELL (World Jewish Congress) said that efforts to reform the Commission to ensure that it fulfilled its obligations should produce swift and concrete results. The Bureau's report contained reasoned and relatively modest proposals that took account of the suggestions of governmental, intergovernmental and non-governmental actors. To defer consideration of those proposals to another working group would merely bog the reform process down in more bureaucracy. The confidence of human rights workers would be undermined and the credibility of the Commission would suffer. Those States with legitimate objections to aspects of the Bureau's report should present viable alternatives which should also be considered expeditiously.

34. Ms. RISHMAWI (International Commission of Jurists) said her organization was concerned that some States were taking the opportunity of the review of the Commission's mechanisms to advocate measures that would reduce the Commission's effectiveness. The Bureau's report contained many useful elements that deserved serious and prompt attention, even if other points required further elaboration. Since there were alarming indications of delaying tactics that would prevent proper action being taken on matters of substance relating to the rationalization of the Commission's work, a time limit should be established for the consideration of the report. The commitment of the member States to human rights promotion and protection would be tested through their capacity to design a system that responded to the needs of victims rather than the desires of Governments.

35. Ms. CHANG (Human Rights Advocates) said that, while many of the recommendations in the Bureau's report would strengthen the Commission's work, some of them, especially those relating to the Sub-Commission, would have a negative impact on the human rights mechanisms. The Sub-Commission had played a vital role in shaping human rights history, supplied an invaluable forum and had already undertaken various reform measures. By reducing the role of the Sub-Commission to a bare minimum, the proposals would injure the very people the United Nations was trying to protect. The proposals on the Sub-Commission should therefore be considered more thoroughly by an inter-sessional working group.

36. Ms. PETOULA (International Federation of Human Rights Leagues) said that, while most of the recommendations in the Bureau's report would strengthen the Commission's mechanisms, the enhanced role of the Chair of the Commission that it proposed should not detract from the mandate of the High Commissioner for Human Rights, as established by the General Assembly. Her organization strongly opposed the proposals to replace the Working Groups on Arbitrary Detention and on Enforced or Involuntary Disappearances by special rapporteurs.

37. The independence of the members of the Sub-Commission needed to be strengthened, but the proposals that the Sub-Commission should undertake only studies which the Commission entrusted to it and that its competence to adopt country resolutions be abolished were both ill-conceived, since the Sub-Commission played an important role as an early-warning mechanism.

In particular the Sub-Commission's competence to adopt resolutions had facilitated the task of NGOs in reporting human rights violations.

38. The proposals in the Bureau's report which had received the widest support should be adopted. An open-ended inter-sessional working group should be established to discuss the rest of the recommendations and report thereon to the Commission at its next session.

39. Ms. MAGO (Asian Cultural Forum on Development) said that the "like-minded group" (LMG) of countries appeared to be the same group of (mainly Asian) States that had attempted to raise the issue of "regional particularities" at the World Conference on Human Rights. Their views were not those of Asian civil society, of which the human rights NGOs were an important component. Despite the fact that the Vienna Declaration had reaffirmed the principles of universality, indivisibility and interrelatedness of human rights, the same Asian Governments had attempted to introduce the issues of national traditions, culture and particularities through their general rejection of the Bureau's recommendations. Their suggestion that country situations should be discussed in confidential meetings only would shut out civil society, which had brought the complaints to the attention of the international community in the first place. In the absence of democratic space in most of the LMG countries, NGOs were compelled to raise their country situations at the Commission owing to the failure of the State in question to comply with internationally recognized human rights standards. Incidentally, few Asian countries had ratified the International Covenant on Economic, Social and Cultural Rights.

40. Regarding the special procedures, LMG had recommended that nationals of a State should not be appointed without its consent. Appointees were not supposed to serve as government representatives. Their independence was crucial. Given the difficulty of censuring Governments in the highly politicized Commission, the Sub-Commission should continue to examine country situations. Lastly, mechanisms should be established to ensure that requests for country visits by special rapporteurs could not be refused for more than two years and sanctions should be introduced against countries that refused to cooperate with the Commission.

41. Mr. WISEBERG (Human Rights Internet) said that NGOs were pleased with the thrust of the Bureau's recommendations, even if they did not agree on all the details. However, the wide divergence of views on the issue of rationalizing the Commission's work was a matter of some concern. The review of human rights mechanisms was not an issue on which it was possible to accept the lowest common denominator in order to achieve a consensus. Principles should not be compromised. Moreover, if an inter-sessional mechanism was to be established, NGOs should be offered full participation alongside States. Any reform should include the provision of adequate human and financial resources for OHCHR, gender balance in the appointment of special rapporteurs, representatives, experts and members of working groups, and recognition of the vital role of NGOs in providing information to special procedures by affirming their unhindered access to the Commission's mechanisms.

42. Mr. RAJKUMAR (Pax Romana) said that the current review exercise provided a timely opportunity to inject clarity and cohesion into the human rights

machinery. By rationalizing existing mechanisms effectively, the sovereignty of the victims would be restored. The recommendations and proposals contained in the Bureau's report were both appropriate and practicable. To achieve consensus and build confidence, divergent viewpoints should be accommodated but, in so doing, it was important to avoid politicization, selectivity, and lack of transparency.

43. Special procedures were fundamental to the work of the Commission. The Sub-Commission, although expensive, was currently indispensable. The primary thrust of the recommendations was to ensure the Sub-Commission's independence. While retaining its sensitivity in addressing country situations, the Sub-Commission had broken new ground by moving towards a cross-cutting, comprehensive rights approach. As for standard-setting, progress had been steady in the area of civil and political rights. To some extent, however, economic, social and cultural rights had been overlooked.

44. Mr. McNAUGHTON (Asian Buddhist Conference for Peace) said that the protection and promotion of human rights must not be undermined by a lack of financial resources. A combination of efficient management of funds and increased overall funding was therefore needed. Any review of the Commission's mechanisms with a view to enhancing their efficiency had to be seen in the context of globalization. Most of the Governments represented in the Commission reflected the interests of multinational corporations which provoked armed conflicts and deliberately destabilized States in order to perpetuate themselves and boost their profits. The Commission's work thus needed to be depoliticized to prevent its resolutions from being used as the tools of certain Western Powers. It was unacceptable that States should attempt to subvert the true function of the Commission.

45. Ms. BRANTLEY (Association of World Citizens) said that observation 9 in the Bureau's report stated that the Commission should make the fullest and most objective possible use of the information and advice available from its special procedures. The tragic consequences of the Commission's failure to heed such advice were all too evident in Sierra Leone, Rwanda and Yugoslavia.

46. The recommendations, observations and conclusions of the special procedures, as well as serious failures of Governments to cooperate, should be highlighted for discussion by the Commission. Reports on critical or urgent developments should also be flagged for the Commission's attention. The effectiveness of such measures would depend on effective follow-up, which was ultimately a question of political will.

47. Mr. PARY (Indian Movement "Tupaj Amaru") said that the principles contained in the Universal Declaration of Human Rights were currently being implemented selectively, unjustly and in a discriminatory fashion with regard to the third world, indigenous peoples and minorities. In a unipolar world, the Western Powers, led by the United States, used each session of the Commission to justify human rights violations in their own countries while pointing the finger at others, placing States such as Cuba, Iraq and Yugoslavia in the dock.

48. To ensure objectivity and transparency, the Commission should entrust country-specific mandates to individuals of proven moral integrity, who should

be given full independence to carry out their mandates. Specific mandates should be established for a period of one to three years depending on the individual situation in each country. It would be inadvisable to reduce the length of annual sessions of the Sub-Commission. The Working Group on Indigenous Populations was the only body open to indigenous peoples and their grass-roots organizations that was recognized by the Economic and Social Council. Its discontinuation would deprive indigenous people of their voice in the United Nations system.

49. Mr. LITTMAN (Christian Solidarity International), speaking also on behalf of the Association for World Education and the Association of World Citizens, said that the recent adoption without a vote of the draft resolution on the situation of human rights in the Sudan (E/CN.4/1999/L.29) illustrated the dangers of trying to achieve consensus. Many member States had been unwilling to speak out plainly; and one outcome had been that the Sudan had felt emboldened by such appeasement to attempt to hijack the draft resolution on the abduction of children from northern Uganda (E/CN.4/1999/L.50) by putting forward its own outrageous amendments (E/CN.4/1999/L.86). Such a provocation must not be allowed to succeed.

50. The relentless realpolitik within the Commission belied the need for universality. On the one hand, Christians and other religious groups were being increasingly persecuted and killed, with no comment from the Commission, while, on the other hand, a State whose Penal Code contained blasphemy legislation - even though it was illegitimate under international instruments - was sponsoring a draft resolution on the defamation of Islam (E/CN/4/1999/L.40). There should not be a separate resolution on such a subject, which was merely another attempt at "blasphemy censorship". The amendments to that draft resolution proposed in document E/CN.4/1999/L.90 were merely a palliative. To achieve real progress, "internationally recognized human rights" must be truly recognized, and by mutual consent.

51. Mr. PROVE (Lutheran World Federation), speaking also on behalf of Defence for Children International and the World Federation of Methodist and Uniting Church Women, said that the informal sessions on the Bureau's report had made it clear how complex the issues were for many delegations and the amount of work required to achieve consensus. Some participants seemed to have lost sight of the fact that the fundamental objective was the promotion and protection of human rights. Nor were some of the recommendations conducive to that end, particularly those relating to the Sub-Commission and the Working Groups on Arbitrary Detention and on Enforced or Involuntary Disappearances.

52. Paragraph 27 recognized the importance for the Commission of mainstreaming cross-cutting issues, but did not recommend any practical steps. Observation 13 should therefore be given the status of a recommendation, as should Observation 17, which touched on the vital concern of NGOs and their contribution to the protection of human rights. In that context, the organizations he represented were strongly opposed to the recommendation by a number of delegations that NGO participation be "fine-tuned" (E/CN.4/1999/120, para. 65).

53. He called on all members of the Commission to reflect on the purpose of the review of the mechanisms and reconsider their entrenched positions. If the matter was to be referred to an inter-sessional working group, the time frame should be as short as possible and proper participation by NGOs should be allowed.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 10) (continued) (E/CN.4/1999/L.19, 21, 26 and 33)

Draft resolution on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights (E/CN.4/1999/L.19)

54. Mr. MORJANE (Tunisia), introducing the draft resolution on behalf of the African Group, said that it was substantially the same as resolution 1998/12, the aim being to endorse and facilitate the useful work carried out by the Special Rapporteur. The only substantive change was to paragraph 7.

55. Ms. IZÉ-CHARRIN (Office of the High Commissioner for Human Rights) said that the observers for Costa Rica, the Dominican Republic, Iraq, Nicaragua and Paraguay had become sponsors of the draft resolution.

56. Mr. LOFTIS (United States of America), speaking in explanation of vote before the voting, said that, despite his delegation's concern over the issue, it thought that the Special Rapporteur's mandate replicated the work of other bodies, such as the Commission on Sustainable Development (CSD), the Food and Agriculture Organization (FAO), the International Labour Organization (ILO) and the World Health Organization (WHO), but particularly the Basel Convention, which was the appropriate forum for the discussion of all matters involving the transboundary movement of hazardous waste. His delegation was therefore unable to support the draft resolution.

57. Mr. KATSURA (Japan) endorsed the previous speaker's remarks: the Commission was not the appropriate forum for the consideration of such matters.

58. At the request of the representative of Tunisia, a vote was taken by roll-call on the draft resolution.

59. The Sudan, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Argentina, Bangladesh, Bhutan, Botswana, Cape Verde, Chile, China, Colombia, Congo, Cuba, Democratic Republic of the Congo, Ecuador, El Salvador, Guatemala, India, Indonesia, Liberia, Madagascar, Mauritius, Mexico, Morocco, Mozambique, Nepal, Niger, Pakistan, Peru, Philippines, Qatar, Rwanda, Senegal, South Africa, Sri Lanka, Sudan, Tunisia, Uruguay, Venezuela.

Against: Austria, Canada, Czech Republic, France, Germany, Ireland, Italy, Japan, Latvia, Luxembourg, Norway, Poland, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Republic of Korea.

60. The draft resolution was adopted by 36 votes to 16, with 1 abstention.

Draft resolution on the right to food (E/CN.4/1999/L.21)

61. Mr. REYES RODRÍGUEZ (Cuba), introducing the draft resolution on behalf of its sponsors who had been joined by the observers for the Dominican Republic and Ghana, said there were a number of changes to be made to its text. In paragraph 6, the words "right to food" should be replaced by "rights related to food". In paragraph 7, the phrase "on the right to food" should be deleted. The end of paragraph 8 should be modified to read "... implementation of rights related to food, taking into account the outcome of the follow-up consultation held in Rome on 18-19 November 1998;". He hoped that the draft resolution, as revised, would receive wide endorsement.

62. Ms. IZÉ-CHARRIN (Office of the High Commissioner for Human Rights) said that the delegations of Canada, France, Indonesia, Ireland, Nepal, Niger, Norway, Russian Federation and Tunisia and the observers for Australia, Costa Rica, Islamic Republic of Iran, Libyan Arab Jamahiriya and Zambia had become sponsors of the draft resolution.

63. The draft resolution, as orally revised, was adopted.

Draft resolution on the question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which developing countries face in their efforts to achieve these human rights (E/CN.4/1999/L.26)

64. Mr. DE SANTA CLARA GOMES (Observer for Portugal), introducing the draft resolution on behalf of its sponsors, said that it aimed at giving higher priority to economic, social and cultural rights. Essentially it was an update of resolution 1998/33. He drew attention to paragraph 6, subparagraph (b), which requested that a workshop should be organized to identify benchmarks and indicators related to the right to education. The sponsors were well aware of the financial implications of that provision and his Government would make a contribution.

65. There were two changes to be made to the text: in paragraph 4, subparagraph (d), the word "progressively" should be inserted after the word "secure"; and in paragraph 5, subparagraph (c), the words "review regularly any" should be replaced by "consider reviewing other". He hoped that the draft resolution could be adopted without a vote.

66. Ms. IZÉ-CHARRIN (Office of the High Commissioner for Human Rights) said that the representatives of Ecuador, Madagascar, Russian Federation and Uruguay and the observers for Ghana, Greece, Mongolia and Nicaragua had become sponsors of the draft resolution.

67. Mr. H.K. SINGH (India) speaking in explanation of position said he welcomed the recognition in the draft resolution that indicators and benchmarks in relation to the right to education should be placed in a progressive and developmental context. The national context, however, was of equal relevance since it was difficult to see how benchmarks applying to all countries could be developed and the elaboration of indicators must be nationally driven rather than externally imposed. Such aspects were insufficiently recognized in the draft resolution, but his delegation hoped that they would be given due importance at the workshop. The insufficient attention paid to the critical element of national cooperation had prevented his delegation from being a sponsor of the draft resolution.

68. Mr. LIU Xinsheng (China) said that many countries had developed their own educational programmes and that, in determining international benchmarks, full account should be taken of the concerns and needs of the developing countries. Secondly, international cooperation was an essential factor. The developed countries should demonstrate their particular political will and restore their official development assistance (ODA) to its previous levels. His delegation would support the draft resolution despite its shortcomings.

69. Ms. RUBIN (United States of America) said that her delegation was glad to join the consensus. Education played a rightful role in developing each person's potential. In her own country, education, primarily run by local and municipal authorities, had been compulsory for generations. Provision was made for special needs and the university system was the widest in the world. There were no nationwide curricula or standards and no federal control.

70. She was, however, troubled by the fact that the draft resolution made no reference to the right of parents to determine their children's educational choices. The reference to structural adjustment programmes was also regrettable since it was a controversial topic that, in any case, was being addressed elsewhere.

71. Mr. COMBA (Office of the High Commissioner for Human Rights) said that no provision had been made under the programme budget for the biennium 1998-1999 or the proposed programme budget for the biennium 2000-2001 for the workshop requested by the draft resolution. The possibility of joint extrabudgetary funding would be explored. He had taken note of the offer by the Observer for Portugal to provide some funding.

72. The draft resolution, as orally revised, was adopted.

Draft decision on the effects of structural adjustment policies on the full enjoyment of human rights (E/CN.4/1999/L.33)

73. Ms. BAUTISTA (Philippines), introducing the draft decision on behalf of its sponsors, said that the Commission was once again in a position to make an impact on the evolution of structural adjustment policies through the

elaboration of basic guidelines that could serve as a basis for dialogue with the international financial institutions. The open-ended working group on structural adjustment programmes and economic, social and cultural rights provided an opportunity for the developing countries to "own" their structural adjustment policies. Such ownership was critical to the success of structural adjustment programmes. The same approach should be applied at the international level: Governments, particularly of developing countries, must own the policy guidelines that defined the structural adjustment programmes of international financial institutions.

74. Other mechanisms might be more efficient than the working group, but the precarious global economic situation dictated that the task of elaborating guidelines should be completed in the shortest possible time. That was why the working group had recommended a two-week session. The intersection between structural adjustment and human rights need not be an area of confrontation.

75. Ms. IZÉ-CHARRIN (Office of the High Commissioner for Human Rights) said that the representative of Indonesia and the observers for Mongolia and Myanmar had become sponsors of the draft decision.

76. Mr. COMBA (Office of the High Commissioner for Human Rights) said that the costs associated with the travel and per diem of the independent expert in 1999 were covered by existing provisions under section 22 of the programme budget for the current biennium. Financial provision of about US$ 63,000 had been included in the proposed programme budget for the biennium 2000-2001 and the requirements for a third year would be included in the proposed programme budget for 2002-2003. The conference servicing requirements of the working group meeting were covered under section 27 (e), Conference Services, of the programme budget for 2000-2001.

77. Ms. RUBIN (United States of America), speaking in explanation of vote before the voting, said that her delegation supported debt forgiveness and/or restructuring within the context of the Paris Club and the Heavily Indebted Poor Countries Initiative, which provided relief for countries that had taken responsibility for their debts and proved their commitment to economic reform. It would, however, vote against the draft decision because the report of the independent expert was unbalanced. Countries needed structural adjustment policies, otherwise they would embark on a downward spiral of ever-worsening economic policies. The fact that structural adjustment programmes frequently cushioned the impact on the most vulnerable sectors of society was not reflected in the report.

78. Mr. KATSURA (Japan) said that his delegation attached great importance to harmonizing structural adjustment policies with human rights. The open-ended working group and the independent expert were not, however, the appropriate means by which the Commission's concerns should be addressed. It was for the World Bank and the International Monetary Fund (IMF), which had the expertise, to deal with the issue.

79. South-East Asia was passing through an economic crisis, in which his Government was actively helping other countries. Such a draft decision would send the wrong message, especially to those struggling for economic recovery through mutual cooperation. It was both inadequate and misleading. Moreover, his delegation did not believe it necessary to extend the meeting of the open-ended working group to two weeks. It would therefore vote against the draft decision.

80. Mr. PADILLA MENÉNDEZ (Guatemala) said he was concerned at the continuing confrontation and non-cooperation within the Commission. The problem must be solved by reforming the Commission's mechanisms, which would be particularly helpful in cases such as the current draft decision.

81. Mr. HÖYNCK (Germany) said he was concerned that the Budget Officer had made provision for a three-year extension of the independent expert's mandate. His delegation's understanding was that the extension was to be for one year.

82. Ms. BAUTISTA (Philippines) said that there had been an automatic extension of three years, although the working group had asked for no more than one. If the independent expert's mandate was not extended, however, Governments would not be able to react to his report.

83. Mr. COMBA (Office of the High Commissioner for Human Rights) said he agreed that the extension had been automatic, but a one-year extension was equally acceptable.

84. The CHAIRPERSON suggested that the first words of paragraph (b) should be amended to read: "To extend for one year the mandate ...".

85. It was so decided.

86. Mr. BENITEZ (Argentina) said that his delegation would vote in favour of the draft decision, in solidarity with countries that were suffering. The whole process should, however, be reviewed as part of the reform of United Nations mechanisms. The confrontational approach was a futile one.

87. At the request of the representative of the United Kingdom, a vote was taken by roll-call on the draft decision.

88. Peru, having been drawn by lot by the Chairperson, was called upon to vote first:

In favour: Argentina, Bangladesh, Bhutan, Botswana, Chile, China, Congo, Cuba, Democratic Republic of the Congo, Ecuador, El Salvador, Guatemala, India, Indonesia, Madagascar, Mauritius, Mexico, Morocco, Mozambique, Nepal, Niger, Pakistan, Philippines, Qatar, Republic of Korea, Rwanda, Senegal, South Africa, Sri Lanka, Sudan, Tunisia, Uruguay, Venezuela.

Against: Austria, Canada, Czech Republic, France, Germany, Ireland, Italy, Japan, Latvia, Luxembourg, Norway, Poland, Romania, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Cape Verde, Colombia, Peru, Russian Federation.

89. The draft decision, as orally amended, was adopted by 33 votes to 15, with 4 abstentions.

The meeting rose at 6.20 p.m.